

Decision 04-06-007 June 9, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Rulemaking 03-03-017
(Filed March 13, 2003)

Order Instituting Investigation on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Investigation 03-03-018
(Filed March 13, 2003)

Robert Hambly, for Himself and, on Behalf of the
Residents of Los Robles Mobilehome Park,

Complainant,

vs.

Hillsboro Properties, a California Limited
Partnership, and the City of Novato,

Defendants.

Case 00-01-017
(Filed January 14, 2000)

DECISION CLOSING CASE 00-01-017

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Summary

On April 7, 2004, the complainant, Robert Hambly, et al. (Hambly), and the defendant, Hillsboro Properties (Hillsboro), filed a motion to close Case (C.) 00-01-017. The motion is unopposed. By this decision, we grant the motion.

Background

C.00-01-017 was filed by Hambly against both Hillsboro, the owner of the Los Robles Mobilehome Park (Los Robles), and the City of Novato (Novato). Hambly claimed that Hillsboro assessed the Los Robles tenants annual rent increases that, though approved by Novato under its rent control authority, resulted in higher charges for submetered natural gas and electric service than Pub. Util. Code § 739.5(a) permits.¹

On August 23, 2001, the Commission issued Decision (D.) 01-08-040. In the decision, the Commission found that Hambly was correct. Hillsboro was directed to calculate the reimbursements owed its tenants, and to file and serve a report with the calculations. Thereafter, Hambly and Hillsboro were ordered to meet and confer to discuss the calculations in a good faith effort to explore and reconcile any differences between them. Hambly was then required to file a notice of acceptance of the calculations or separate calculations performed in accordance with the Commission's determinations. If Hambly filed a notice of

¹ Section 739.5(a) provides in part:

"The commission shall require that, whenever gas or electric service, or both, is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer shall charge each user of the service at the same rate which would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation."

acceptance of the calculations, the Executive Director was to close the proceeding. Otherwise, additional proceedings were to be held as necessary to resolve the discrepancies between the parties. Once the refunds were quantified, Hillsboro was required to reimburse the tenants. The parties were unable to reach agreement on the refunds at that time.

Subsequently, Hillsboro and Western Manufactured Housing Communities Association (WMA) filed an application for rehearing that was denied (D.02-01-043). Hillsboro and WMA then filed for a writ of review, and for a writ of mandate with the Court of Appeal, First Appellate District, Division Two. On April 1, 2003, the court issued its decision upholding the Commission's decision.

On April 7, 2004, Hambly and Hillsboro filed a motion to close C.00-01-017. They state that they have resolved the issues regarding quantification of the refunds, and that no further Commission action is necessary. Therefore, they ask that the proceeding be closed.

C.00-01-017 was consolidated with Order Instituting Rulemaking (R.) 03-03-017 and Order Instituting Investigation (I.) 03-03-018 for further proceedings as necessary, and D.01-08-040 was stayed. Hambly and Hillsboro have resolved the issue of refunds in this proceeding to their mutual satisfaction, and their motion is unopposed. There is no apparent reason why the proceeding should remain open. In addition, since the Commission is not setting a policy or precedent by this decision, there is no reason that this proceeding should remain consolidated with R.03-03-017 and I.03-03-018. Therefore, we will deconsolidate this proceeding from R.03-03-017 and I.03-03-018, remove the stay of D.01-08-040, and close C.00-01-017. In order that the payment of refunds not be delayed, this decision should be effective immediately.

Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Hambly and Hillsboro have resolved the issues regarding quantification of the refunds ordered by D.01-08-040.
2. The motion is unopposed.

Conclusions of Law

1. No further Commission action is necessary.
2. Since the Commission is not setting a policy or precedent by this decision, this proceeding should be deconsolidated from R.03-03-017 and I.03-03-018.
3. The stay of D.01-08-040 should be removed.
4. Case 00-01-017 should be closed.
5. In order that the payment of refunds not be delayed, this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Case (C.) 00-01-017 is deconsolidated from Order Instituting Rulemaking 03-03-017 and Order Instituting Investigation 03-03-018.
2. The stay of Decision 01-08-040 is removed.

3. The motion of Robert Hambly and Hillsboro Properties to close C.00-01-017 is granted.

4. C.00-01-017 is closed.

This order is effective today.

Dated June 9, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners